

# **Exhibit F**

Carl Andrew Vergari - February 12, 2020

Page 1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
  
IN RE: )  
CUSTOMS AND TAX ADMINISTRATION OF )  
THE KINGDOM OF DENMARK ) CASE NO.  
(SKATTEFORVALTNINGEN) TAX REFUND ) 18-MD-2865 (LAK))  
SCHEME LITIGATION )  
  
This document relates to case nos. )  
18-CV-05308; 18-CV-05309; 18-CV-05305; )  
18-CV-05299; and 18-CV-05300 )  
\_\_\_\_\_ )

VIDEOTAPED DEPOSITION UNDER ORAL EXAMINATION OF  
CARL ANDREW VERGARI  
DATE: February 12, 2020

REPORTED BY:  
MICHAEL FRIEDMAN, CCR

Carl Andrew Vergari - February 12, 2020

Page 9

1       C A R L   A N D R E W   V E R G A R I ,  
2                   called as a witness, having been first  
3       duly sworn according to law, testifies as follows:  
4  
5  
6

7       EXAMINATION BY MR. WEINSTEIN:

8           Q     Good morning, Mr. Vergari.  
9       Throughout the day today, I'll be asking you  
10      questions. Mike here will be taking it down  
11      on the stenographic record.

12                Because of that, we ask that you  
13      verbalize any answers as opposed to nodding  
14      or any other form of communication.

15           A     Okay.

16           Q     If you don't understand a question  
17      or you didn't quite hear it, just ask us and  
18      we can read it back or try again.

19           A     Okay.

20           Q     The goal will be to take a break  
21      around every hour to hour, 15 minutes. But  
22      if you need to take a break before that for  
23      some reason, just let us know and we'll  
24      accommodate.

25                We just ask that if I've asked you

Carl Andrew Vergari - February 12, 2020

Page 16

1       however you just worded it, yes. But I did  
2       not know the logistics of it or who was  
3       involved.

4           Q     But you did know that claims were  
5       being submitted to Denmark for tax refunds on  
6       behalf of the NYCATX Plan?

7           A     Yes.

8           Q     What prompted you to create the  
9       NYCATX Plan?

10           MR. ALLISON: Object to form.

11           A     I was told to create a plan to be  
12       involved in an investment opportunity.

13           Q     Who told you that?

14           A     My bosses at the time.

15           Q     Who were they?

16           A     Matthew Tucci, Dawson Bradley, and  
17       Danny Fletcher.

18           Q     When you say they were your bosses  
19       at the time, was that at Tradition?

20           A     Yes.

21           Q     Can you describe each of their  
22       roles at Tradition?

23           A     They were the co-heads of the desk,  
24       is the best way to put it, of our group.

25           Q     Was that the emerging markets

Carl Andrew Vergari - February 12, 2020

Page 31

1 Is that right?

2 A Yes.

3 Q Okay. Was that LLC formed for any  
4 other purpose other than to take advantage of  
5 this investment opportunity?

6 A No, it wasn't.

7 Q Have you met with Mr. Shah any  
8 other times, other than that meeting that you  
9 described?

10 A Just that one time.

11 Q Have you had any conversations with  
12 him other than that in-person meeting?

13 A In person? No.

14 Q Other than that hotel meeting, have  
15 you talked to him by phone or other means?

16 A I believe I e-mailed him once,  
17 asking him to explain the trade in detail,  
18 just in writing.

19 Q Okay.

20 A And he told me to go over it with  
21 Roger Lehman.

22 Q Did it concern you that he didn't  
23 give you a response in writing about an  
24 explanation for the trades?

25 MR. ALLISON: Object to form.

Carl Andrew Vergari - February 12, 2020

Page 42

1 A I don't.

2 Q When you say a "holder" of a  
3 401(k), what do you mean by that?

4 A They were the -- I'm not sure how  
5 to put it. Like they were the 401(k)  
6 platform or -- yeah, I'm not quite sure how  
7 to word it.

8 Q Did Mr. Lehman give you  
9 instructions to open up an LLC in this form?

10 MR. ALLISON: Object to form.

11 A This, I believe it was just  
12 everything in that binder that we had to fill  
13 out to -- as part of the onboarding process.  
14 And if I remember correctly, this is just one  
15 of those pieces.

16 Q Who owned this LLC?

17 A I did.

18 Q Any other owners?

19 A No.

20 Q Did NYCATX, LLC conduct any  
21 business?

22 A No.

23 Q Did it employ anyone?

24 A No.

25 Q Does it still exist?

Carl Andrew Vergari - February 12, 2020

Page 68

1                   How did you understand that plans  
2           would be able to purchase securities without  
3           providing any cash?

4                   MR. ALLISON: Object to form.

5           A     Well, I was under the understanding  
6           that Solo Capital was a hedge fund that had  
7           already existed, and I assumed that a hedge  
8           fund has capital to -- already to partake in  
9           investments.

10           Q     So was it your understanding that  
11           Solo Capital would provide the money to  
12           purchase shares on the plan's behalf?

13                   MR. ALLISON: Object to form.

14           A     Yes.

15           Q     Have you ever invested in hedge  
16           funds before?

17           A     No, I haven't.

18           Q     Is it your general understanding  
19           that in order to have a hedge fund trade on  
20           your behalf as an investor, that the investor  
21           would have to put money into the hedge fund  
22           first before it would execute trades on the  
23           investor's behalf?

24                   MR. ALLISON: Object to form.

25           A     I know that now. But at the time,

Carl Andrew Vergari - February 12, 2020

Page 111

1 portion of the refunds that were paid by SKAT  
2 as a result of those claims?

3 MR. ALLISON: Object to form.

4 A The plan itself did not, no.

5 Q Who got the refunds?

6 A I'm not sure. I would imagine Solo  
7 did on behalf of my plan, all the plans.

8 Q Did Solo then provide any of those  
9 to the plan, or no?

10 A The dividends?

11 Q The refunds.

12 A Oh, I'm not sure.

13 Q So as a result of the various  
14 trading that happened on behalf of the plan,  
15 did the plan get any money?

16 A Not to my knowledge, no.

17 Q As a result of the trading that was  
18 done on behalf of the plan, did you  
19 personally get any money?

20 A Yes.

21 Q How much did you get?

22 A Around \$130,000. Two payments of  
23 60 and a payment of ten, I believe.

24 MR. WEINSTEIN: Tell you what?

25 Let's break for lunch. It's a little

Carl Andrew Vergari - February 12, 2020

Page 162

1 Q Down towards the bottom of that  
2 statement, on September 2nd, there's a  
3 deposit of \$10,696.

4 Do you see that?

5 A Yes.

6 Q Is that related at all to the  
7 investment program?

8 A No.

9 Q Okay. In connection with the  
10 re-claims submitted on behalf of the NYCATX  
11 Plan, and those submissions are Exhibits 47  
12 and 74 to 75, SKAT paid out to Acupay  
13 approximately 5.5 million U.S. dollars based  
14 on the approximate exchange rates at the  
15 time.

16 Okay?

17 A In regards --

18 MR. ALLISON: Let him finish the  
19 question first.

20 Q So in connection with those five  
21 claim forms, SKAT paid an approximate  
22 equivalent of 5.5 million U.S. dollars.

23 And your testimony is that what you  
24 or your plan received at the end of the day  
25 from that was a little under \$140,000.

Carl Andrew Vergari - February 12, 2020

Page 163

1 Is that right?

2 A Yes.

3 Q Okay. You know, from your  
4 perspective, were you or was your plan  
5 actually involved in an investment  
6 opportunity or was this more like you rented  
7 out a plan to Solo Capital --

8 MR. ALLISON: Object to form.

9 Q -- for a fee?

10 A I don't know. I -- these numbers  
11 that I received, I just kind of went along  
12 with it. That that was my cut or my -- you  
13 know, my share of the -- whatever was  
14 profited.

15 Q And during the course of the  
16 trading that happened on behalf of the plan  
17 for the year prior to those payments, you did  
18 not pay much attention to what was actually  
19 being traded and how much was coming in.

20 Is that right?

21 A Correct.

22 Q Is that because you didn't expect  
23 to receive specific percentages of any  
24 trading profits?

25 A I didn't know what to expect in